

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA  
FOR THE AUGUST 5, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee proposes the following agenda for the August 5, 2015 status conference. Defendants, the Post Confirmation Officer, the FDA, and the Massachusetts Board of Registration in Pharmacy have been given an opportunity to comment on this proposed agenda.

**A. Motions for which oral argument has been ordered.<sup>1</sup>**

1. Choice of Law Briefing [Dkt. 1905] (*See* #17, *infra*)

**B. Motions for which oral argument is requested.**

1. PSC's Memorandum Regarding Court's Authority to Conduct Trials Pursuant to 28 U.S.C. § 157(b)(5) [Dkt. 2055] (*See* #18, *infra*)

**C. Report to the Court.**

1. Status of bankruptcy
  - a. Post Confirmation Officer's Motion for Partial Withdrawal of the Reference re Implementing Plan [Dkt. 1962]
    - i. Notice of No Opposition to Motion for Partial Withdrawal of the Reference [Dkt. 2085]
2. Status of insurance declaratory actions

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<sup>1</sup> Electronic Clerk's Notes of May 28, 2015 status conference [Dkt. 1905].

- a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
  - b. *State Farm Fire and Casualty Company v. Specialty Surgery Center PLLC, et al.*, 2:15-cv-00026 (M.D. Tenn.)
3. Status of discovery
  - a. PSC's Motion for Protective Order [Dkt. 2129] (*See* #10, *infra*)
  - b. Inspira's Motion for Protective Order [Dkt. 2000] (*See* #12, *infra*)
  - c. Motion to Quash filed by Massachusetts Board of Registration in Pharmacy (*See* #13, *infra*)
  - d. Saint Thomas Entities' Motion to Compel Invoking Defendants to Produce Certain Documents [Dkt. 2117, 2118]
4. Status of litigation track
  - a. PSC's Report to the Court Regarding *Lexecon* Election Forms [Dkt. 2075]
  - b. Proposed stipulation and order dismissing all product liability claims against the Premier Defendants
  - c. Order granting PSC's Motions for Orders to Show Cause re Dismissals [Dkt. 1992]
    - i. Box Hill Defendants' Objection [Dkt. 2038]
    - ii. PSC's Response [Dkt. 2078]
    - iii. Ameridose's Joinder in PSC Response [Dkt. 2080]
    - iv. Post-Confirmation Officer's Joinder in PSC and Ameridose Response [Dkt. 2081]
    - v. Order overruling Box Hill Defendants' Objection [Dkt. 2088]
  - d. Ameridose's Motion for Order [Dkt. 1929]
    - i. PSC's Opposition [Dkt. 1985]
  - e. GDC's Motion for Order [Dkt. 1933]
    - i. PSC's Opposition [Dkt. 1986]
5. Report from *Pro Se* Liaison
6. Status of appeals
7. Schedule for future status conferences
  - a. September 10, 2015 at 11:30 a.m. (Boal) and 2:00 p.m. (Zobel)

- b. October 14, 2015 at 11:30a.m. (Boal) and 2:00 p.m. (Zobel)

**D. Fully-briefed motions.**

- 8. Box Hill Defendants' Motion to Dismiss [Dkt.1639] (*no oral argument requested*)
  - a. Consolidated Plaintiffs' Opposition [Dkt. 1944]
  - b. Box Hill Defendants' Reply [Dkt. 2053]
- 9. Ameridose's Motion to Destroy 100 Pallets of Paper Records Pertaining to its Recalled Products [Dkt. 1980] (*no oppositions or responses filed*)
- 10. PSC's Unopposed Motion for Entry of Qualified Protective Order [Dkt. 2129]
- 11. Motions to Withdraw as Counsel (*oral argument conducted during June 24, 2015 conference*)
  - a. Motions to Withdraw as Attorney for Ameridose [Dkt. 1936, 1979]
  - b. Motion to Withdraw as Attorney for Barry Cadden, Lisa Conigliaro Cadden, Glenn Chin, Carla Conigliaro, Douglas Conigliaro, Greg Conigliaro [Dkt. 1940]
  - c. Motion to Withdraw as Attorney for GDC [Dkt. 1947]
  - d. Tennessee Clinic Defendants' Response [Dkt. 1963]
  - e. Tennessee Clinic Defendants' Notice of Withdrawal of Omnibus Response to Motions to Withdraw [Dkt. 2037]
- 12. Inspira's Motion for Protective Order regarding Premier Defendants' deposition notices [Dkt. 2000] (*oral argument before Judge Boal scheduled for August 5, 2015*)
  - a. Premier Defendants' Notice of consent to 10 day extension on opposition and consent to reply [Dkt. 2052]
  - b. Premier Defendants' Opposition [Dkt. 2087]
  - c. Inspira's Reply [Dkt. 2098]
- 13. Massachusetts Board of Registration in Pharmacy's Motion for Protective Order [Dkts. 1975, 1976] (*oral argument before Judge Boal scheduled for August 5, 2015*)
  - a. Tennessee Clinic Defendants' Opposition [Dkt. 2029]
  - b. PSC's Response [Dkt. 2088]
  - c. Tennessee Clinic Defendants' Response to PSC Brief [Dkt. 2124]
- 14. PSC's Motion to Quash Saint Thomas Entities' Subpoena, Deposition Notice and Document Request to Dr. Phillip J. Austin, Ph.D. [Dkt. 2069] (*oral argument before Judge Boal scheduled for August 5, 2015*)

- a. Saint Thomas Entities' Opposition [Dkt. 2100]
  - b. Joinder by Various Anonymous Health Care Providers [Dkt. 2112]
  - c. PSC's Reply [*forthcoming*]
15. Tennessee Clinic Defendants' Motion to Compel PSC to Respond to Discovery Served by the Tennessee Clinic Defendants and Motion to Deem Requests Admitted [Dkt. 1830] (*no oral argument requested*)
- a. Stipulation on Extension of Time for PSC to Respond [Dkt. 1873]
  - b. PSC's Opposition [Dkt. 1887]
16. Motions re Pretrial Schedules
- a. Bellwether Submissions (*Replies waived*)
    - i. PSC's Memorandum on Initial Trial Setting and Pretrial Deadlines for the Saint Thomas-Related Defendants [Dkt. 1866]
    - ii. Saint Thomas Entities' Proposal for Bellwether Trials [Dkt. 1870]
    - iii. Tennessee Clinic Defendants' Memorandum on Bellwether Trials [Dkt. 1871]
    - iv. PSC's Report to the Court Regarding *Lexecon* Election Forms [Dkt. 2075]
17. Choice of Law Briefing
- a. Letters
    - ii. Premier Defendants' letter [Dkt. 1915]
    - iii. BKC Defendants' (*et al.*) letter [Dkt. 1921]
    - iv. Box Hill Defendants' (*et al.*) letter [Dkt. 1922]
  - b. Three Pagers
    - i. PSC's Statement [Dkt. 1924]
    - ii. Trustee's Statement [Dkt. 1925]
    - iii. Saint Thomas Entities' Statement [Dkt. 1926]
    - iv. Tennessee Clinic Defendants' Statement [Dkt. 1942]
    - v. Premier Defendants' Statement [Dkt. 1927]
    - vi. GDC's Statement [Dkt. 1928]
    - vii. FDA's Statement [Dkt. 1948]
  - c. Order re Choice of Law Issues [Dkt. 1938]
  - d. Briefs in Response to Order:

- i. PSC's Response [Dkt. 2004]
- ii. Ameridose's Joinder in PSC's Memorandum Regarding Choice of Law for cases filed in TN and NJ [Dkt. 2018]
- iii. Saint Thomas Entities' Response [Dkt. 2071]
- iv. Tennessee Clinic Defendants' Response [Dkt. 2073]
- v. Specialty Surgery Clinic Defendants' Response [Dkt. 2064]
- vi. Premier Defendants' Response [2072]
- vii. Bhagat and Perkins' Response [Dkt. 2074]
- viii. PSC's Reply [Dkt. 2097]

18. PSC's Memorandum Regarding Court's Authority to Conduct Trials Pursuant to 28 U.S.C. § 157(b)(5) [Dkt. 2055]

- a. Premier Defendants' Response [Dkt. 2084]
- b. Tennessee Clinic Defendants' Response [Dkt. 2089]
- c. Saint Thomas Entities' Response [Dkt. 2090]
- d. Specialty Surgery Clinic Defendants' Response [Dkt. 2091]
- e. PSC's Reply [Dkt. 2131]

**E. Briefing in progress.**

19. Ohio Medical Defendants' Motion to Dismiss [Dkt. 2099]

- a. Plaintiff's Opposition [*forthcoming*]

20. Court's Order Regarding Jurisdiction Pursuant to 28 U.S.C. § 1334(b) in certain New Hampshire Cases [Dkt. 2103]

- a. NH Plaintiffs' Response [*forthcoming August 17, 2015*]

21. Saint Thomas Entities' Motion to Compel Invoking Defendants to Produce Certain Documents [Dkt. 2117, 2118]

- a. APAC Pain Management, BKC, Cincinnati Pain Management et. al.'s Notice of Joinder in Motion to Compel [Dkt. 2126]

Dated: August 4, 2015

Respectfully submitted,

/s/ **Kristen A. Johnson**

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**CERTIFICATE OF SERVICE**

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Proposed Agenda to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: August 4, 2015

/s/ **Kristen A. Johnson**  
Kristen A. Johnson, BBO # 667261